

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, 2458 Ridge Road,
Queensbury, NY 12804;

Plaintiff

v.

UNITED STATES; INTERNAL REVENUE
SERVICE, 1111 Constitution Ave. NW,
Washington, D.C. 20220, John Koskinen,
Commissioner;

Defendants

AMENDED COMPLAINT

CASE No. 1:15-CV-1299

BKS/CFH

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Robert L. Schulz, ("Schulz") pursuant to IRC 6703(c)(2), and Rules 20, 23, and 65 of the Federal Rules of Civil Procedure, hereby files this Amended Complaint in which he seeks the entry of an Order:

- a. Declaring Plaintiff's liability for civil penalty under IRC 6700 to be zero; and
- b. Directing Defendants to refund \$1,000 to Plaintiff; and
- c. Granting any other, relief to the Plaintiff that the Court may deem just and proper, including but not necessarily limited to a reimbursement of Plaintiff's costs and fees related to this case

1. Under penalty of perjury, Schulz declares as follows:

STATEMENT OF THE CASE

2. This Complaint arises from the March 5, 2015 assessment by the IRS, in error, of a civil penalty against Schulz in the amount of \$225,000 for "Promoting an Abusive Tax Shelter." Under IRC Section 6700(a), a financial penalty cannot be imposed on a person found to

have promoted an abusive tax shelter in violation of Section 6700, if the gross income derived (or to be derived) by the promoter from the forbidden activity was zero.

BACKGROUND AND STATEMENT OF THE FACTS

3. In 1988, Schulz completed a nine-year transition from the work he had been successfully engaged in for twenty-five years to work full time on holding government accountable to the rule of law and to stop earning income during the career toward which he believed himself to be called.
4. Schulz had come to believe defense of our Charters of Freedom was a necessary service to God and humanity, and as he would be speaking to governmental and political power, he did not want his motive to be compromised or impugned.
5. Between 1979 and 1988 Schulz had learned, first hand, that all public officers were not always benevolent, did not always have the public interest uppermost in their minds and could be vindictive and engage in retribution if you questioned the legality of their actions.
6. For instance, in 1979, Schulz learned first-hand that some public officers are capable of deliberately violating the Rule of Law while they manufactured a problem and prescribed a solution that would benefit them and their friends at the expense of everyone else.¹ In 1987, Schulz learned first-hand there are some public officers who do not like opposition from any quarter and who could be vindictive, and retaliate against those citizens who challenged the legality of their actions.²
7. As a consequence, in 1988, Schulz decided that it was his duty, as a U.S. Citizen to be better informed about: a) the Rule of Law as it applied to public officers; b) whether public

¹ See *Tri-County Taxpayers Association v Town of Queensbury, et al.*, 55 N.Y.2s 41 (1982); Schulz, as Chairman of TCTA successfully sued the Town and County for violating the State Environmental Quality Review Act.

² See *Schulz v. Town of Queensbury*, 150 A.D.2d 854; Schulz successfully sued the Town of Queensbury, who had attempted to punish him, under color of law, for bringing the 1979 action against the Town.

officers had stepped outside the boundaries drawn around their power; c) how to intelligently, rationally and professionally confront illegal and unconstitutional behavior by public officers; and d) how to encourage ordinary, non-aligned citizens to do the same.

8. In 1988 Schulz embarked full time on his second career – claiming and exercising his First Amendment Right to Petition the Government for Redress of Grievances by challenging public officers who appear to be ignoring the Constitution and laws pursuant thereto, and advocating non-violent, civic-action against those public officers if they first ignore the Rule of Law and then ignore proper Petitions for Redress of Grievances, and, to do so without any compensation – i.e., earned income.
9. To support his work and family he chose to rely on the sale of his real property surrounding his home, approximately two acres at a time, and occasionally, if his land did not sell quickly enough, he would rely on loans and gifts from family and friends.
10. In 1997, for the purpose of helping all citizens to become better informed about their Rights under their State and Federal Constitutions and the laws pursuant thereto, and better informed about how to intelligently, rationally and professionally hold public officials accountable to the Rule of Law, Schulz founded We The People Foundation for Constitutional Education, Inc., a 501(c)(3) tax exempt organization, and We The People Congress, Inc., a 501(c)(4) tax exempt organization.
11. Between July 19, 1999 and November 14, 2002, in his official capacity as Chairman of the We The People organization, Schulz led a national effort to obtain the answers to important questions by Petitioning the leaders of the federal government, including the President and each member of the Senate and House of Representatives, for Redress of Grievances relating to four apparent violations of the government's constitutional powers to make war,

make money, police the state and tax the People: a) the Iraq Resolution's violation of the war powers clauses; b) the Federal Reserve System's violation of the money clauses; c) the U.S. Patriot Act's violation of the privacy clauses; and d) the direct, un-apportioned tax on labor's violation of the tax clauses.

12. While the Petition process was enlightening and supported by tens of thousands of individuals, it was unsuccessful to the extent that the government recipients of the Petitions for Redress ignored them.
13. On March 15, 2003, in his official capacity as Chairman of We The People organization, Schulz Petitioned the federal government for Redress of Grievances regarding the legality of the government's practice of forcing employers to withhold taxes from paychecks before those taxes were due and owing.
14. Receiving no response to the Withholding Petition, Schulz distributed copies of that Petition to workers and company officials, requesting that it be given to their corporate attorneys and accountants for their consideration: the Petition was placed on the organizations' website in early 2003 where it could be downloaded for free; thirty-five hundred copies of the Petition were placed in Blue Folders and distributed for free at a series of free public meetings held across the county in April and May of 2003; notwithstanding the organizations' effort to discourage people from requesting that a hard copy of the Petition be mailed to them, two hundred twenty five copies were mailed to those individuals who, presumably, were not able to download the material or attend one of the meetings, whether or not they volunteered to cover the organization's cost of preparing and mailing each copy of the Petition, estimated to be \$20.

15. In 2003, in response to the organizations' Withholding Petition, the IRS declared it had launched an IRC Section 6700 abusive tax shelter investigation and summoned the 2003 books of Schulz and each of the two organizations.
16. In response, Schulz sued the IRS, claiming the information sought by the IRS was personal and private property and that the IRS was retaliating against Schulz and the organizations because of their comprehensive program of Petitioning the Government for Redress of the various Grievances.
17. In 2005, the 2nd Circuit blocked the Summonses, for reasons of due process.
18. In 2006, the IRS conducted a thorough audit of both the We The People Foundation for Constitutional Education, Inc., and the We The People Congress, Inc. for the year 2003; the audit took place in Albany, N.Y., at the offices of WTP's accounting firm; the IRS examiner received all the records that he asked for, including but by no means limited to the organizations' income and expense records and bank statements for 2003; the audit demonstrated Schulz had not received any income from the organizations.
19. In April of 2007, the IRS sued Schulz and the two organizations under IRC 6700 for distributing the Blue Folders in 2003, an activity the IRS equated to the promotion of an abusive tax shelter. Notably, the government's lawsuit followed: a) the December 2006 enactment into law of the Tax Relief and Health Care Reform Act of 2006 (which included a provision that authorized the Treasury Secretary to prescribe a list of "specified frivolous positions" and to fine any person who relied on any of those specified frivolous positions in any IRS proceeding); and b) the March 2007 Treasury Notice that prescribed a list of "specified frivolous positions" (which list included "the Right to Petition the Government for Redress of Grievances." Presumably, in light of the evidence from the IRS audit that

Schulz had not derived any gross income from the complained of activity, and the language of IRC 6700(a) limiting the financial penalty to zero for those who earned no income from the prohibited activity, the IRS did not request a financial penalty and the District Court did not include a financial penalty in its August 2007 decision that granted IRS's motion for a summary judgment against the two organizations and Schulz, who was pro se.

20. More than seven years later, in November of 2014, notwithstanding the Court's prior decision and Schulz's lack of income from the described activity, IRS Agent David Gordon wrote a letter to Schulz saying he had made a determination that Schulz, in his individual capacity, should be penalized \$225,000, \$1,000 for each of the 225 copies of the Blue Folder which were mailed to people in 2003, and if Schulz had any questions he could telephone him.
21. On December 16, 2015, Schulz and his attorney Samuel Lambert spoke by phone with Gordon. Lambert explained to Gordon that IRC Section 6700 discusses the computation of a penalty saying that the penalty is zero if the income derived from the activity is zero and accordingly, the penalty against Schulz should be zero because the gross income earned by Schulz from the prohibited activity was zero. Gordon said he "had boxes of stuff from all over the country using Schulz's material." Gordon said he had closed out the case and Schulz could challenge the assessment. Lambert told Gordon he wanted to speak to Gordon's manager. Gordon said he would talk to his manager about that.
22. On December 19, 2014, Schulz and his attorney, Samuel Lambert spoke by phone with Gordon and "Chris", Gordon's acting group manager. Lambert said being in violation of 6701 does not determine the amount of the penalty; the penalty is zero if the gross income derived from the activity is zero. Gordon said the case is closed and had been sent to

another state for the assessment, and while it takes IRS a while to process claims, once Schulz receives the CP15 Notice he will have thirty days to pay \$150 as 15% of one of the \$1,000 penalties attached to each of the two hundred twenty five Blue Folders Schulz mailed to people in 2003, and file a claim for a refund. Lambert said this is no laughing matter, he was not happy as there is no evidence that Schulz received any income from the activity. Gordon said "The case is closed." Lambert said, "That can be changed." Lambert asked Gordon and his manager to keep an open mind and to retrieve the file from the assessment unit because according to IRC 6700, Schulz is not liable for any penalty because he earned no income from the activity and it was wrong to put Schulz through an appeal process. Gordon's manager said he would try to retrieve the file.

23. There is no evidence that Gordon or his manager, after being informed by Lambert of the language of IRC 6700 that prohibited the imposition of a penalty on anyone, such as Schulz, who did not earn any gross income from the activity prohibited by 6700, made any effort to reconsider Gordon's determination that Schulz be penalized \$225,000, in his individual capacity, for mailing 225 copies of the Withholding Petition for Redress.
24. There is no evidence that Gordon or his manager made any effort to retrieve from the assessment unit Gordon's determination that Schulz be so penalized.
25. On March 5, 2015, Schulz received from IRS's assessment unit a CP15, Notice of Penalty Charge, dated March 9, 2015, "for promoting an abusive tax shelter," assessing Schulz \$225,000 (\$1,000 for each of the 225 Blue Folders that contained the Withholding Petition for Redress and that were mailed to people in 2003). A copy of the CP15 is annexed hereto as Exhibit A.

26. The CP15 Notice read in part, "The penalty for activity described in IRC section 6700(a)(1) is the lesser of \$1,000 or 100 percent of the gross income derived (or to be derived) from the activity." See Exhibit A
27. The Notice also read in part, "If you want to contest the IRC section 6700 penalty... within 30 days after the date of this Notice and Demand, pay an amount which is not less than 15 percent of the penalty and file a claim for refund on a Form 6118 for the amount you paid. You may file suit in United States district court within 30 days after the date we deny your claim, or if earlier, within 30 days after the expiration of six months from the date you filed your claim...." See Exhibit A
28. On April 3, 2015, Schulz mailed \$1,000 to the IRS with a notice that a claim for refund is being filed with the IRS in Andover, Mass. See Exhibit B
29. On April 6, 2015, Schulz's attorney, Samuel Lambert, mailed a letter to the IRS in Andover, enclosing: (see Exhibit C which includes a mailing confirmation from FedEx).
- a completed Form 6118 (Claim for Refund),
 - an attachment to Form 6118,
 - a Form 2848 (Power of Attorney),
 - a copy of the IRS Notice CP15, and
 - an Affidavit of Robert L. Schulz with accompanying exhibits.
- NOTE: The Affidavit is included in the Attachment to the Complaint, not in Exhibit C.
30. On April 13, 2015, Schulz received a notice CP503 from the IRS, reminding Schulz that he has unpaid taxes for 2003 in the amount of \$225,000 plus interest of \$648.17. Exhibit D
31. On May 18, 2015 Schulz received a notice CP504 from the IRS, declaring "If you don't call us immediately at 1-800-829-0922), or pay the amount due (\$224,000 plus interest of \$1,294.91), we may seize ("levy") your property or rights to property See Exhibit E
32. On May 18, 2015, Schulz called the number provided on the CP504 and spoke to IRS Agent "Charmin" ID 1000890657 who told Schulz his file showed receipt of the \$1,000 but

no indication of Andover's receipt of the Form 6118. She said she put a 60 day hold on collections to give Andover more time to resolve the Claim for Refund.

33. On July 14, 2015, Schulz telephoned the IRS and spoke with a Miss Wilkerson, ID No. 100067905, who confirmed there was a nine week hold put on collection which would end on August 10, 2015. She said she saw no confirmation of the Form 6118 being filed or any additional information posted on the open IRS system she was viewing.
34. On August 3, 2015, Schulz received a Notice LT11 Notice of Intent to levy saying if Schulz does not pay the IRS \$224,000 plus interest of \$3,284.93 by September 2, 2015 the IRS may seize his car, home and other personal property, his bank accounts and social security benefits, among other property. See Exhibit F
35. On August 4, 2015, Schulz spoke by phone with IRS Agent Ms. Johnson, I.D. No. 1000154491 who told Schulz the Form 6118 "must have dropped through the cracks." She recommended Schulz resend the Form 6118 to Andover, telling Andover that it is the second time the material had been sent and enclosing a copy of the mailing confirmation from FedEx. She also told Schulz she had put a hold on collections until September 17, 2015, and "I apologize on behalf of the service."
36. On August 6, 2015, Schulz sent a letter to IRS in Andover, attaching a copy of all that was sent to Andover on April 6, 2015. See Exhibit G.
37. A copy of said August 6, 2015 and April 6, 2015 letters and all of their attachments and exhibits, together with the mailing confirmations for the April 6, 2015 and the August 6, 2015 mailings are attached to and made a part of this Amended Complaint.
38. On or about October 14, 2015, Schulz received a letter from the IRS saying, "Thank you for your inquiry of Sep. 15, 2015. We haven't resolved this matter ... we'll contact you

again within 90 days with our reply. You don't need to take any further action now on this matter...Thank you for your cooperation." See Exhibit H.

39. However, Schulz made no inquiry of the IRS on September 15, 2015.
40. On November 2, 2015, in light of the statutory requirements of IRC Section 6703(c)(2) - that is, that if the IRS did not resolve Schulz's Form 6118 appeal in six months, Schulz had 30 days to file a case in District Court for a determination of his liability under 6700, or lose his protection against IRS's collection of the penalty, Schulz filed his original Complaint in this matter, which Complaint included an Attachment that contained a copy of Schulz's April 3, 2015 Affidavit and voluminous exhibits documenting the fact that he received no gross income from either of the two organizations from the prohibited activity.
41. Said filing on November 2, 2015 was the fourth time Schulz had to provide the voluminous financial records to the government; they were also provided to the IRS:
 - in 2006 during IRS's audit of the two organizations, and
 - On April 6, 2015 as part of Schulz's Form 6118 appeal to IRS in Andover from IRS's March 2015 assessment, and
 - On August 6, 2015, on the advice of IRS's Collection unit that Schulz resend his Form 6118 appeal to Andover due to the Collection unit's inability to find any evidence in Schulz's file that Andover had acknowledged receipt of and was working on the Form 6118 appeal.
42. By reference, said Attachment, in its entirety and unaltered, is made a part of this Amended Complaint, as if included here.
43. On 11/10/15, DOJ sent Schulz a letter saying their response to the complaint will identify the attorney in the Tax Division handling the case. The letter gave a phone number: 202-307-6533. See Exhibit I.
44. On 11/13/15, IRS Kansas City sent a letter to Schulz saying in response to Schulz's inquiry of 9/15/15 the IRS needed 30 days more days to resolve the matter. See Exhibit J.

45. However, Schulz made no inquiry of IRS on 9/15/15
46. On 11/24/15, IRS Kansas City sent Schulz another letter saying in response to Schulz's inquiry of 8/10/15 they needed 45 days to resolve the matter. See Exhibit K.
47. However, Schulz made no inquiry of IRS on 8/10/15.
48. On November 24, 2015, a Notice of Federal Tax Lien against Schulz was prepared and signed in Manhattan, NY by Cheryl Cordero for HOLLY NICHOLSON, and filed in the Warren County Clerk's Office, covering the 6700 tax assessed of March 9, 2015 in the amount of \$224,000. See Exhibit L.
49. On December 4, 2015, Schulz received a phone call from Cathy Preston (IRS, Ogden Service Center) saying she had "received a pile of papers and did not know why." The papers she described were those Schulz and his attorney Lambert had sent to Andover on April 6, 2015 and again on August 6, 2015, including Schulz's Affidavit and voluminous exhibits but without the Form 6118. Preston asked for Schulz's social security number and looked up Schulz's file, which she said showed that, "the levy had been released." Preston said she would forward the papers she received to New York. She gave Schulz her phone number: 801-620-3763.
50. On December 23, 2015, Schulz telephoned DOJ at the number provided by DOJ in its November 10th letter (see paragraph 43 above), to confer about the Rule 19 conference that had been scheduled by the Court. Schulz was informed by the woman that answered the phone that Tom Cole had the case, but Cole was out of the office. Schulz explained he needed to speak to someone about the Rule 19 conference. The call was transferred to a Mr. Mullarkey who said Greg Seador, not Tom Cole had the case and that he would have Seador call me.

51. On December 29, 2015, at 5:01 pm, Seador telephoned Schulz and spoke to his wife Judith Schulz who told Seador that Schulz was out of the house and would return the call.
52. On December 30, 2015, Schulz called Seador who was out of the office but returned the call later that day saying a Collin Winkler was on the call with him. Schulz explained the parties to the lawsuit were required to confer 21 days before the Court's rule 19 conference which was scheduled for 2/1/16. Seador said he would be filing a motion to dismiss. Seador and Schulz agreed to confer at 10 am on January 6, 2015 if the court did not remove the Rule 19 conference from the calendar as a consequence of the dispositive motion.
53. On December 30, 2015 Schulz received the property tax bill for his home, totaling \$7,183.91. The school tax bill of approximately the same amount was paid in September.
54. Schulz is unable to pay his property tax due to the tax lien placed on his property (See paragraph 48 above and Exhibit L), preventing Schulz from selling any more of his homestead to raise the money needed to pay the property tax and to continue his work which, since 2009 has had no direct connection with the direct un-apportioned tax on labor, the withholding tax or any other tax.
55. With the exception of defending himself and the two organizations against the IRS's allegations of wrongdoing dating back to 2003, Schulz's work since January 2010 has been focused on helping People to become better informed about the importance of their State and Federal Constitutions and the availability of the Right to Petition for Redress of Grievances to intelligently, rationally and professionally hold government accountable to the Constitutions and the laws pursuant thereto, especially in New York State where he is the lead pro se plaintiff in a series of judicial Petitions for Redress of Grievances against the government.

PARTIES

56. Plaintiff Schulz is a citizen of the United States of America and the State of New York; he resides at 2458 Ridge Road, Queensbury, NY 12804. In 2003 and all times relevant to this proceeding, Schulz was the volunteer, unpaid Chairman and chief operating officer of the We The People Foundation for Constitutional Education, Inc., and We The People Congress, Inc.
57. The United States is a sovereign, independent nation whose government is structured and regulated by the Constitution for the United States of America.
58. The Internal Revenue Service is a Division of the United States Department of the Treasury, with principle offices located at 1111 Constitution Ave NW, Washington DC. Mr. John Koskinen is the IRS Commissioner.

JURISDICTION AND VENUE

59. This Court has jurisdiction under IRC 6703(c), which reads:

1. 6703(c) Extension of period of collection where person pays 15 percent of penalty.

(1) In general.

If, within 30 days after the day on which notice and demand of any penalty under section 6700 or 6701 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Person must bring suit in district court to determine his liability for penalty.

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700 or 6701 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

FIRST CAUSE OF ACTION

Since 100% of Schulz's Gross Income From The Described Activity Is Zero, the Maximum Penalty Is Zero

60. Schulz sent a \$1,000 payment to the IRS in Fresno, California, and requested a refund in accordance with the procedures outlined in IRS's letter dated March 9, 2015. See paragraphs 25-28 above and Exhibits A and B.
61. The penalty should be fully refunded (or in the alternative reduced to a much smaller amount) for the following reasons:

A. Schulz Had No Income From The Activity Described By The IRS

62. Section 6700 is aimed at penalizing persons who promote abusive tax shelters for their own enrichment; accordingly, it limits the penalty imposed to the lesser of \$1,000 or "100 percent of the gross income derived (or to be derived) by such person from such activity." IRC Section 6700(a).
63. Since 100% of Schulz's gross income from the described activity is zero, the maximum penalty is zero. See the annexed Affidavit from Schulz and its accompanying documents in support of this claim, which are included in the Attachment to the Complaint and by reference to this Amended Complaint.

64. Furthermore, the government has treated each mailing of a Blue Folder as a separate “activity” within the meaning of Section 6700. The statute requires the penalty to be capped by gross income the person derived “from such activity.” This means the penalty calculation must be done with respect to each mailing. There is no evidence that Schulz derived any income related to any particular mailing of the Blue Folder. At most, the evidence shows that some (but not all) of the people who requested a copy of the Blue Folder be mailed to them voluntarily donated up to \$20 to WTP. Even if WTP’s receipts are somehow attributed to Schulz (which they should not be), the total income amounts to no more than \$20 per “activity,” which would total less than \$4500.
65. Moreover, the amount of the proposed penalty is unjustified because the government has not shown that each and every mailing of documents was a violation of Section 6700. At most, the Injunction decision concludes that Schulz and WTP engaged in some activity in violation of 6700. There is no finding that each and every transmittal of the Blue Folder was a violation of Section 6700.

**B. Schulz’s Activities Do Not Meet The Statutory Requirements
Set Forth In Section 6700(a).**

66. Section 6700(a) imposes a penalty on

Any person who—

(1)

(A) organizes (or assists in the organization of)

(i) a partnership or other entity,

(ii) any investment plan or arrangement, or

(iii) any other plan or arrangement, or

Any person who

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)–

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

67. No partnership, investment plan, or other “plan or arrangement” within the meaning of Section 6700(a)(1)(A)(iii) was organized by Schulz.
64. No interests in any plan or arrangement were sold.
65. Schulz did not make any statements “with respect to the allowability of any deduction or credit, the excludability of an income, or the securing of any other tax benefit,” within the meaning of the statute.
66. No statement made by Schulz respecting taxes required “holding an interest” in any entity or “participating in [any] plan or arrangement.”
67. Schulz did not know or have reason to know that any statements he made were false or fraudulent.
68. To the extent any of these issues were decided in a prior proceeding, Schulz is preserving the issue for appeal by raising them here. However, Schulz asserts that any prior decision should not be binding because, among other reasons, the issues were not fully litigated. Schulz was representing himself pro se, the decision was on motion for summary judgment,

and the issue at hand (whether or not Schulz could distribute certain documents) was minor compared with the amount of money at stake in this proceeding.

69. In addition, Schulz challenges the interpretation of the statutory language in the prior decision with respect to whether disseminating the documents was a “plan or arrangement” within the meaning of the statute and whether any statements made by Schulz required holding an interest or participating in any plan or arrangement within the meaning of the statute.
70. Further, the court’s finding that Schulz “should have known” his statements were false includes no temporal element. The Court did not conclude that Schulz should have known this in 2003, but merely concluded that Schulz “admits being aware” of various court decisions. Since Schulz’s declaration was dated 2007, the court’s conclusion can at best be a determination that Schulz should have known in 2007. The penalty at issue is for tax year 2003 and the government has not demonstrated Schulz knew or should have known in 2003.

C. Statute of Limitations and/or Laches Prevents Imposition of the Penalty

71. Although some courts have held no statute of limitations applies in the case of Section 6700, the issue has not been tested in Schulz’s circuit. Further, if the Court concludes that no limitations period applies, Schulz believes the doctrine of laches would apply. The government was aware of the complained of activity in 2003 and actually filed a lawsuit in 2007. Waiting until 2015 to assert the penalty was dilatory and prejudicial against Schulz. Various circuits have indicated that in egregious cases and in cases in which there is no statute of limitations, the doctrine of laches applies, even against the federal government.

Sage v. United States, 908 F.2d 18 (5th Cir. 1990); *Martin v. Consultants & Admrs.*, 966 F.2d 1078 (7th Cir. 1992); *Cayuga Indian Nation v. Pataki*, 413 F.3d 266 (2d Cir. 2005).

SECOND CAUSE OF ACTION

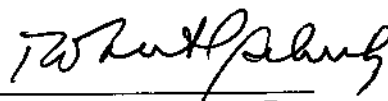
Defendants Are Prohibited From Retaliating Against Schulz Under Color of Law

72. Schulz's distribution of the Withholding Petition in 2003, especially following the government's refusal to respond to the Petition, falls within the zone of interests protected by the First and Ninth Amendments to the Constitution for the United States of America.

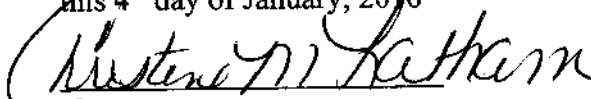
WHEREFORE, Plaintiff Schulz respectfully requests the Court enter an Order:

- a. Declaring Plaintiff's liability for civil penalty under IRC 6700 to be zero; and
- b. Directing Defendants to refund \$1,000 to Plaintiff; and
- c. Granting any other, relief to the Plaintiff that the Court may deem just and proper, including but not necessarily limited to a reimbursement of Plaintiff's costs and fees related to this case

Respectfully Submitted,


ROBERT L. SCHULZ
pro se
2458 Ridge Road
Queensbury, NY 12804
TEL: [518] 656-3578

Sworn to before me
this 4th day of January, 2016


Notary

CHRISTINE M. LATHAM
Notary Public, State of New York
Warren County No. 04LA6234169
Commission Expires Jan. 18, 2019



Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9052

175343.381795.377728.12686 1 AT 0.406 373



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

175343

Notice	CP15
Tax Year	2003
Notice date	March 9, 2015
Social Security number	[REDACTED]
To contact us	1-800-829-0922
Page 1 of 2	CAF 17H

RAY QUINNEY

MAR 05 2015

& NEBEKER

DOCKET
CONTROL

Notice of Penalty Charge

628

You have been charged a penalty for the following reason: Promoting an Abusive Tax Shelter.

TAX STATEMENT

Prior Balance	\$0.00
Penalty Assessment	\$225,000.00
Interest	\$0.00
Bad Check Penalty	\$0.00
Balance Due	\$225,000.00

Continued on back...



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

Notice	CP15
Notice date	March 9, 2015
Social Security number	[REDACTED]



Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on your payment and any correspondence.

Amount due by March 19, 2015

\$225,000.00

INTERNAL REVENUE SERVICE
FRESNO, CA 93888-0010



111304460 YR SCHU 55 0 200312 670 00022500000

Notice	CP15
Tax Year	2003
Notice date	March 9, 2015
Social Security number	[REDACTED]
Page 2 of 2	17H

We charged you a penalty for promoting an abusive tax shelter. The penalty for activity described in IRC section 6700(a)(1) is the lesser of \$1,000 or 100 percent of the gross income derived (or to be derived) from the activity.

The penalty for making or furnishing (or causing another person to make or furnish) a statement described in IRC section 6700(a)(2)(A) is 50 percent of the gross income derived (or to be derived) from the activity.

There is no maximum amount of penalty.

For a detailed calculation of the penalty, please refer to the penalty calculation worksheet provided to you at the conclusion of the penalty investigation.

If you want to contest the IRC section 6700 penalty we assessed, you must follow one of the two procedures below:

- (i) Pay the entire amount assessed and file a claim for refund of the amount paid using a Form 6118 at any time not later than 2 years after the date of payment. If we deny your claim or 6 months passes from the date you file your claim, you may file a refund suit in United States district court or the Court of Federal Claims. Any refund suit must be filed within two years of denial of your refund claim. Alternatively,
- (ii) Within 30 days after the date of this Notice and Demand, pay an amount which is not less than 15 percent of the penalty and file a claim for refund on a Form 6118 for the amount paid. You may file suit in United States district court within 30 days after the date we deny your claim, or if earlier, within 30 days after the expiration of six months from the date you filed your claim. Forms 6118 are available at most IRS offices, on the IRS website at www.irs.gov, or you can order one by calling toll-free 1-800-829-3676

For tax forms, instructions and information visit www.irs.gov. Access to this site will not provide you with any taxpayer account information.



Contact information

ROBERT L. SCHULZ
%SAMUEL A. LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

Notice	CP15
Notice date	March 9, 2015
Social Security number	[REDACTED]

If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on any correspondence.

<input type="checkbox"/> a.m.	<input type="checkbox"/> a.m.
<input type="checkbox"/> p.m.	<input type="checkbox"/> p.m.
Primary phone	Best time to call
Secondary phone	Best time to call

INTERNAL REVENUE SERVICE
ANDOVER, MA 01810-9052



111304460 YQ SCHU 55 D 200312

Form 6118 (Rev. August 2009) Department of the Treasury Internal Revenue Service	Claim for Refund of Tax Return Preparer and Promoter Penalties ▶ For Penalties Assessed Under IRC Sections 6694, 6695, 6700, and 6701. ▶ See instructions on page 2.	OMB No. 1545-0240
--	---	-------------------

Print or Type	Name of preparer or promoter	Identifying number See instructions.
	Address to which statement(s) of notice and demand were mailed	
	City, town or post office, state, and ZIP code	IRS office that sent statement(s)
	Address of preparer shown on return(s) for which penalties were assessed (if different from above)	

Type of Penalty. Enter letter in column (c) below.

- | | |
|---|---|
| A Understatements due to unreasonable positions—section 6694(a)
B Willful or reckless conduct (Intentional disregard of rules and regulations)—section 6694(b)
C Failure to furnish copy of return or claim for refund to taxpayer—section 6695(a)
D Failure to sign return or claim for refund—section 6695(b)
E Failure to furnish identifying number—section 6695(c)
F Failure to retain copy or list—section 6695(d) | G Failure to file a record of return preparers—section 6695(e)(1)
H Failure to include an item in the required record of return preparers—section 6695(e)(2)
I Negotiation of check—section 6695(f)
J Failure to exercise due diligence in determining eligibility for, and/or amount of, the earned income credit—section 6695(g)
K Promoting abusive tax shelters, etc.—section 6700
L Aiding and abetting understatement of tax liability—section 6701
M Other (specify) (see instructions) |
|---|---|

Identification of Penalties. Enter the information from your statement.

	(a) Statement document locator number (DLN)	(b) Date of statement	(c) Type of penalty	(d) Name(s) of taxpayer(s)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

	(e) Taxpayer's identification number	(f) Form number	(g) Tax year	(h) Amount assessed	(i) Amount paid	(j) Date paid (mo., day, yr.)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						

Amount of Claim. Enter the total of column (j), lines 1 through 12

Sign Here	Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.	
	Signature _____	Date _____

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Use Form 6118 if you are a tax return preparer or a promoter and want to claim a refund of preparer or promoter penalties you paid but that you believe were incorrectly charged.

Claims for More Than One Penalty

If you are claiming a refund for more than one of the penalties listed, you may be able to combine some of the penalties on one Form 6118. Follow the chart below for combining the penalties. See *Type of Penalty* on the form for the list of penalties.

IF you were billed...	THEN combine penalties...
On the same statement	G and H only
On separate statements but by the same IRS office or service center	C, D, E, and F only Note. Be sure to group the penalties from each statement together.

You cannot combine:

- Penalties from different IRS offices or service centers. See *Where and When To File* below.
- Penalties A, B, I, J, K, L, and M. You must file a separate Form 6118 for each of these even if you were charged for two or more of the same type.
- Penalties K and L. You must file a separate Form 6118 for each of these even if you were charged with both. Only columns (b), (c) and (g) through (j) need to be completed for penalties under sections 6700 and 6701.

Where and When To File

File Form 6118 with the IRS service center or IRS office that sent you the statement(s). If you were assessed a penalty under section 6700, 6701, or 6694, you may file a claim for refund upon paying 15% of the penalty if you do so within 30 days from the date of notice and demand. Otherwise, your claim under sections 6700 and 6701 must be filed within 2 years from the date you paid the penalty in full. Your claim under sections 6694 and 6695 must be filed within 3 years from the date you paid the penalty in full.

Specific Instructions

Identifying Number

If you are self-employed or employed by another preparer or promoter, enter your social security number. If you are the employer of other preparers or promoters, enter your employer identification number.

Type of Penalty

For item M (other penalties), enter the name of the penalty and the corresponding Internal Revenue Code section.

Additional Information

You may want to attach a copy of the penalty statements to your claim. In addition to completing the form, you must give your reasons for claiming a refund for each penalty listed. Identify each penalty by its line number and write your explanation in the space below.

For additional information about refunds of preparer penalties, see Regulations section 1.6696-1.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Subtitle F, Procedure and Administration, allows for additions to tax, additional amounts, and assessable penalties. This form is used by return preparers to make a claim for refund of any overpaid penalty amount. Section 6696 requires the return preparer to provide the requested information including his taxpayer identification number (SSN or EIN) within the prescribed time for filing a claim for refund.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 6 min.; Learning about the law or the form, 19 min.; Preparing the form, 22 min.; and Copying, assembling, and sending the form to the IRS, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, see *Where and When To File* above.

Reasons for claiming refund. Attach additional sheets if more space is needed. Write your name and identifying number on each sheet.

.....

.....

.....

.....

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

April 3, 2015

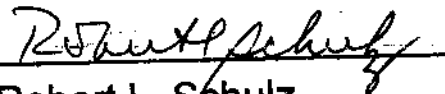
Internal Revenue Service
Fresno, CA 93888-0010

Dear Sir or Madam,

Enclosed please find payment of \$1000 for Robert L. Schulz, [REDACTED]
[REDACTED], Tax Year 2003, Form CVL PEN.

A claim for refund is being filed with the IRS office in Andover, MA in connection with this payment.

Very truly yours,


Robert L. Schulz

CC: Samuel Lambert

M.O. SERIAL #
22664501234
#1,000
P.O. 128040 CLERK 0014
MAILED 4-3-15



Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9052

175343.381795.377728.12686 1 AT 0.406 373

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ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

5343

| | |
|------------------------|----------------|
| Notice | CP15 |
| Tax Year | 2003 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |
| To contact us | 1-800-829-0922 |
| Page 1 of 2 | CAF 17H |

Notice of Penalty Charge

You have been charged a penalty for the following reason: Promoting an Abusive Tax Shelter.

TAX STATEMENT

| | |
|--------------------|--------------|
| Prior Balance | \$0.00 |
| Penalty Assessment | \$225,000.00 |
| Interest | \$0.00 |
| Bad Check Penalty | \$0.00 |
| Balance Due | \$225,000.00 |

Continued on back..



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

| | |
|------------------------|---------------|
| Notice | CP15 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |



Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on your payment and any correspondence.

Amount due by March 19, 2015

\$225,000.00

INTERNAL REVENUE SERVICE
FRESNO, CA 93888-0010

[illegible]

111304460 YQ SCHU 55 0 200312 670 00022500000

| | |
|------------------------|---------------|
| Notice | CP15 |
| Tax Year | 2003 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |
| Page 2 of 2 | 17H |

We charged you a penalty for promoting an abusive tax shelter. The penalty for activity described in IRC section 6700(a)(1) is the lesser of \$1,000 or 100 percent of the gross income derived (or to be derived) from the activity.

The penalty for making or furnishing (or causing another person to make or furnish) a statement described in IRC section 6700(a)(2)(A) is 50 percent of the gross income derived (or to be derived) from the activity.

There is no maximum amount of penalty.

For a detailed calculation of the penalty, please refer to the penalty calculation worksheet provided to you at the conclusion of the penalty investigation.

If you want to contest the IRC section 6700 penalty we assessed, you must follow one of the two procedures below:

- (i) Pay the entire amount assessed and file a claim for refund of the amount paid using a Form 6118 at any time not later than 2 years after the date of payment. If we deny your claim or 6 months passes from the date you file your claim, you may file a refund suit in United States district court or the Court of Federal Claims. Any refund suit must be filed within two years of denial of your refund claim. Alternatively,
- (ii) Within 30 days after the date of this Notice and Demand, pay an amount which is not less than 15 percent of the penalty and file a claim for refund on a Form 6118 for the amount paid. You may file suit in United States district court within 30 days after the date we deny your claim, or if earlier, within 30 days after the expiration of six months from the date you filed your claim. Forms 6118 are available at most IRS offices, on the IRS website at www.irs.gov, or you can order one by calling toll-free 1-800-829-3676

For tax forms, instructions and information visit www.irs.gov. Access to this site will not provide you with any taxpayer account information.



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

| | |
|------------------------|---------------|
| Notice | CP15 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |



Contact information

If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

- ☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on any correspondence.

Primary phone ☐ a.m. ☐ p.m. Best time to call Secondary phone ☐ a.m. ☐ p.m. Best time to call

INTERNAL REVENUE SERVICE
ANDOVER, MA 01810-9052



111304460 YQ SCHU 55 0 200312

RAY QUINNEY & NEBEKER

April 6, 2015

VIA FEDEX

Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9052

SALT LAKE CITY OFFICE
PO Box 45385
Salt Lake City, Utah
84145-0385

36 South State Street
Suite 1400
Salt Lake City, Utah
84111

801 532-1500 TEL
801 532-7543 FAX
www.rqn.com

PROVO OFFICE
85 North University Ave
Suite 430
Provo, Utah
84601-4420

801 342-2400 TEL
801 375-8379 FAX

Re: Robert L. Schulz
SSN: [REDACTED]

TO WHOM IT MAY CONCERN:

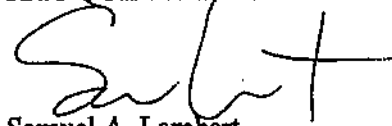
Please find enclosed the following documents:

- (1) Form 6118 for Robert L. Schulz;
- (2) Attachment to Form 6118;
- (3) Form 2848;
- (4) Copy of IRS Notice CP15; and
- (5) Affidavit of Robert L. Schulz with accompanying exhibits.

If you have any questions, please contact me.

Very truly yours,

RAY QUINNEY & NEBEKER P.C.



Samuel A. Lambert

SAL/jp
Enclosures
1324070

ATTORNEYS AT LAW
Clark P. Giles
Douglas W. Morrison
Herbert C. Uwey
D. Jay Curtis
Jonathan A. Dibble
Loren E. Webb
James S. Jardine
Douglas Matsumori
Larry G. Moore
Bruce L. Olson
John A. Adams
Douglas M. Monson
Craig Carlin
Jeffrey W. Appel
David J. Castleton
Ellen J. D. Toccano
Kevin G. Glade
Lester K. Essig
Ian B. Rubinfeld
Stephen C. Tingey
John R. Madson
Michael W. Spencer
Scott A. Hagen
Mark M. Batilhyon
Rick L. Rose
Rick B. Haggard
Lisa A. Verkhovich
Brent D. Widen
Michael E. Blue
Shawn W. Call
Elaine A. Monson
Mark A. Cotter
Gregory J. Savage
Kathy J. Applegate
Justin T. Toth
Lisset B. Stevens
Robert G. Ricks
Arthur S. Berger
Frederick R. Thaler, Jr.
John W. Meckay
McKay M. Pearson
Mark W. Pugley
Matthew H. Evans
Gary L. Longmire
John P. Wunderl
Michael R. Johnson
E. Blake Rowson
Samuel C. Straight
Matthew R. Lewis
Paul C. Burke
Elaine M. Margabala
D. Zachary Wiseman
Michael D. Mayfield
Brett L. Tolman
Bryan K. Bassett
Karin F. Brown
Janelle Eulick Baser
Gregg D. Stephenson
Kristina M. Larsen
Gregory S. Roberts
Christopher N. Nelson
Angela E. Albin
Samuel A. Lambert
David H. Leigh
Curtis M. Reese
Richard M. Madson, II
Ryan B. Bell
S. Brandon Olson
Charles M. Liray
David B. Dibble
Bryant J. McCauley
Merle E. Heckel
Blake R. Simpson
Michael M. Erickson
Eric G. Benson
R. Troy Mullerup
Matthew M. Casano
James A. Sorenson
Mica McKinney
Adam D. Wenz
Robert P. Harrington
Greg M. Newman
Adam K. Richards
Blake R. Voorhees
James M. Swan
Beth J. Ranshaw
Aaron K. Olson
Kimberly A. Child
Caleb R. Winder
J.J. Green
Katherine E. Priest
Katherine B. Benson
Whitney Huie Kruger
Jeremiah J. Hansen

OF COUNSEL
Robert M. Graham
Harold E. Hall
M. John Ashton
Gerald T. Sauer
Robert G. Wing
Katie A. Eccles
Jordan Christensen
Jennifer R. Karl
Jared H. Parrish
Anjell J. Fald

Form **6118**(Rev. August 2008)
Department of the Treasury
Internal Revenue Service**Claim for Refund of Tax Return
Preparer and Promoter Penalties**► For Penalties Assessed Under IRC Sections 6694, 6695, 6700, and 6701.
► See instructions on page 2.

OMB No. 1545-0240

| | | |
|---------------|--|---|
| Print or Type | Name of preparer or promoter
Robert L. Schulz | Identifying number
See instructions. |
| | Address to which statement(s) of notice and demand were mailed
c/o Samuel A. Lambert - 38 South State Street, Suite 1400 | |
| | City, town or post office, state, and ZIP code
Salt Lake City, UT 84111-1451 | IRS office that sent statement(s) |
| | Address of preparer shown on return(s) for which penalties were assessed (if different from above) | Andover, MA 0810-9052 |

Type of Penalty. Enter letter in column (c) below.

- | | |
|---|---|
| A Understatements due to unreasonable positions—section 6694(a) | G Failure to file a record of return preparer—section 6695(e)(1) |
| B Willful or reckless conduct (intentional disregard of rules and regulations)—section 6694(b) | H Failure to include an item in the required record of return preparer—section 6695(e)(2) |
| C Failure to furnish copy of return or claim for refund to taxpayer—section 6695(a) | I Negotiation of check—section 6695(f) |
| D Failure to sign return or claim for refund—section 6695(b) | J Failure to exercise due diligence in determining eligibility for, and/or amount of, the earned income credit—section 6695(g) |
| E Failure to furnish identifying number—section 6695(c) | K Promoting abusive tax shelters, etc.—section 6700 |
| F Failure to retain copy or list—section 6695(d) | L Aiding and abetting understatement of tax liability—section 6701 |
| | aa Other (specify) (see instructions) |

Identification of Penalties. Enter the information from your statement.

| | (a)
Statement document
locator number (DLN) | (b)
Date of
statement | (c)
Type of
penalty | (d)
Name(s) of taxpayer(s) | | |
|----|---|-----------------------------|---------------------------|-------------------------------|--|--|
| 1 | | 3-9-15 | K | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |

| | (e)
Taxpayer's identification
number | (f)
Form
number | (g)
Tax
year | (h)
Amount
assessed | (i)
Amount
paid | (j)
Date paid
(mo., day, yr.) |
|----|--|-----------------------|--------------------|---------------------------|-----------------------|-------------------------------------|
| 1 | | | 2003 | 225,000 | 1,000 | 4-8-15 |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |

Amount of Claim. Enter the total of column (i), lines 1 through 12

1,000

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Sign Here *Robert L. Schulz* Date April 3, 2015

Signature

For Privacy Act and Paperwork Reduction Act Notice, see back of form.

Cat. No. 24415J

Form 6118 (Rev. 8-2008)

Attachment to Form 6118

Robert L. Schulz [REDACTED]

Mr. Schulz has sent a \$1000 payment to the IRS office in Fresno, CA. This is a request to refund that payment in accordance with the procedures outlined in the letter dated March 9, 2015, a copy of which is enclosed.

The penalty should be fully refunded (or in the alternative reduced to a much smaller amount) for the following reasons:

A. Mr. Schulz had no income from the activity described by the IRS.

Section 6700 is aimed at penalizing persons who promote abusive tax shelters for their own enrichment. Accordingly, it limits the penalty imposed to the lesser of \$1000 or "100 percent of the gross income derived (or to be derived) by such person from such activity." IRC § 6700(a). Since 100% of Mr. Schulz's gross income from the described activity is zero, the maximum penalty is zero. We have attached an affidavit from Mr. Schulz, and accompanying documents, in support of this claim.

Furthermore, the government has treated each mailing of a Blue Folder as a separate "activity" within the meaning of § 6700. The statute requires the penalty to be capped by gross income the person derived "from such activity." This means the penalty calculation must be done with respect to each mailing. There is no evidence that Mr. Schulz derived any income related to any particular mailing of the Blue Folder. At most, the evidence shows that many (but not all) of the people who requested a copy of the Blue Folder voluntarily donated \$20 to WTP. Even if WTP's receipts are somehow attributed to Mr. Schulz (which they should not be), the total income amounts to no more than \$20 per "activity," which would total less than \$4500.

Moreover, the amount of the proposed penalty is unjustified because the government has not shown that each and every transmittal of documents was a violation of § 6700. At most, the Injunction decision concludes that Mr. Schulz and WTP engaged in some activity in violation of 6700. There is no finding that each and every transmittal of the Blue Folder was a violation of § 6700.

B. Mr. Schulz's activities do not meet the statutory requirements set forth in § 6700(a).

Section 6700(a) imposes a penalty on

Any person who—

(1)

(A) organizes (or assists in the organization of)—

- (i) a partnership or other entity,
- (ii) any investment plan or arrangement, or
- (iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding

Attachment to Form 6118

Robert L. Schulz

an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or
(B) a gross valuation overstatement as to any material matter,

1. No partnership, investment plan, or other "plan or arrangement" within the meaning of § 6700(a)(1)(A)(iii) was organized by Mr. Schulz.
2. No interests in any plan or arrangement were sold.
3. Mr. Schulz did not make any statements "with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit," within the meaning of the statute.
4. No statement made by Mr. Schulz respecting taxes required "holding an interest" in any entity or "participating in [any] plan or arrangement."
5. Mr. Schulz did not know or have reason to know that any statements he made were false or fraudulent.

To the extent any of these issues were decided in a prior proceeding, we are preserving the issues for appeal by raising them here. However, we assert that any prior decision should not be binding because, among other reasons, the issues were not fully litigated. Mr. Schulz was representing himself pro se, the decision was on motion for summary judgment, and the issue at hand (whether or not Mr. Schulz could distribute certain documents) was minor compared with the amount of money at stake in this proceeding.

In addition, we challenge the interpretation of the statutory language in the prior decision with respect to whether disseminating the documents was a "plan or arrangement" within the meaning of the statute and whether any statements made by Mr. Schulz required holding an interest or participating in any plan or arrangement within the meaning of the statute.

Further, the court's finding that Mr. Schulz "should have known" his statements were false includes no temporal element. The Court did not conclude that Mr. Schulz should have known this in 2003, but merely concluded that Mr. Schulz "admits being aware" of various court decisions. Since Mr. Schulz's declaration was dated 2007, the court's conclusion can at best be a determination that Mr. Schulz should have known in 2007. The penalty at issue is for tax year 2003 and the government has not demonstrated Mr. Schulz knew or should have known in 2003.

C. Statute of limitations and/or Laches prevents imposition of the penalty.

Although some courts have held no statute of limitations applies in the case of § 6700, the issue has not been tested in Mr. Schulz's circuit. Further, if a court concludes that no limitations period applies, we believe the doctrine of laches would apply. The government was aware of the complained of activity in 2003 and actually filed a lawsuit in 2007. Waiting until 2015 to assert the penalty was dilatory and prejudicial against Mr. Schulz. Various circuits have indicated that in egregious cases and in cases in which there is no statute of limitations, the doctrine of laches applies, even against the federal government. *Sage v. United States*, 908 F.2d 18 (5th Cir. 1990); *Martin v. Consultants & Admrs.*, 966 F.2d 1078, (7th Cir. 1992); *Cayuga Indian Nation v. Pataki*, 413 F.3d 266 (2d Cir. 2005).

Form **2848**
(Rev. July 2014)
Department of the Treasury
Internal Revenue Service

Power of Attorney and Declaration of Representative

Information about Form 2848 and its instructions is at www.irs.gov/form2848.

OMB No. 1545-0150

For IRS Use Only

Received by:

Name

Telephone

Function

Date

Part I Power of Attorney.

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address
Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

Taxpayer identification number(s)

111-30-4460

Daytime telephone number

Plan number (if applicable)

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address

Samuel A. Lambert - Ray Quinney & Nebeker P.C.
35 South State Street, Suite 1400
Salt Lake City, UT 84111

CAF No. 0304-72834R

PTIN PO1289534

Telephone No. (801) 323-3388

Fax No. (801) 632-7543

Check if to be sent copies of notices and communications ☒

Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address

CAF No. _____

PTIN _____

Telephone No. _____

Fax No. _____

Check if to be sent copies of notices and communications ☐

Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address

CAF No. _____

PTIN _____

Telephone No. _____

Fax No. _____

(Note, IRS sends notices and communications to only two representatives.)

Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address

CAF No. _____

PTIN _____

Telephone No. _____

Fax No. _____

(Note, IRS sends notices and communications to only two representatives.)

Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

- 3 Acts authorized (you are required to complete this line 3). With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

| Description of Matter (income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number (1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable) (see instructions) |
|--|--|---|
| Penalties under 5700 et seq. | | 2003 |
| | | |
| | | |

- 4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. Specific Use Not Recorded on CAF ☐

- 5a Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☐ Sign a return;

☐ Other acts authorized:

Form 2848 (Rev. 7-2014)

Page 2

b Specific acts not authorized. My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.
List any specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b):

6 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here ☐
YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

7 Signature of taxpayer. If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.
IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.

Signature Robert L. SchulzDate 12-19-14

Title (if applicable)

Print Name ROBERT L. SCHULZ

Print name of taxpayer from line 1 if other than individual

Part II Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:

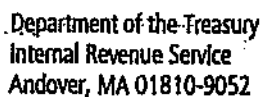
- a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
- b Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
- c Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230.
- d Officer—a bona fide officer of the taxpayer organization.
- e Full-Time Employee—a full-time employee of the taxpayer.
- f Family Member—a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
- g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(c) of Circular 230).
- h Unenrolled Return Preparer—Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have prepared and signed the return. See Notice 2011-8 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions (PTIN required for designation h).
- i Registered Tax Return Preparer—registered as a tax return preparer under the requirements of section 10.4 of Circular 230. Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have prepared and signed the return. See Notice 2011-8 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions (PTIN required for designation i).
- k Student Attorney or CPA—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LTC or STCP. See instructions for Part II for additional information and requirements.
- l Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2. See the instructions for Part II.

Note. For designations d-l, enter your title, position, or relationship to the taxpayer in the "Licensing Jurisdiction" column. See the instructions for Part II for more information.

| Designation—
Insert above
letter (a-l) | Licensing jurisdiction
(state) or other
licensing authority
(if applicable) | Bar, license, certification,
registration, or enrollment
number (if applicable).
See instructions for Part II for
more information. | Signature | Date |
|--|--|---|------------------|----------|
| a | Utah | 11915 | <u>See below</u> | 12/30/14 |
| | | | | |
| | | | | |
| | | | | |

Form 2848 (Rev. 7-2014)



175343.381795.377728.12686 1 AT 0.406 373



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

| | |
|------------------------|----------------|
| Notice | CP15 |
| Tax Year | 2003 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |
| To contact us | 1-800-829-0922 |
| Page 1 of 2 | CAF 17H |

5343

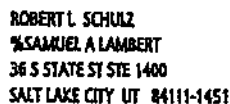
Notice of Penalty Charge

You have been charged a penalty for the following reason: Promoting an Abusive Tax Shelter.

TAX STATEMENT

| | |
|--------------------|--------------|
| Prior Balance | \$0.00 |
| Penalty Assessment | \$225,000.00 |
| Interest | \$0.00 |
| Bad Check Penalty | \$0.00 |
| Balance Due | \$225,000.00 |

Continued on back...



| | |
|------------------------|---------------|
| Notice | CP15 |
| Notice date | March 9, 2015 |
| Social Security number | ██████████ |



Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on your payment and any correspondence.

Amount due by March 19, 2015

\$225,000.00

INTERNAL REVENUE SERVICE
FRESNO, CA 93888-0010



111304460 YQ SCHU 55 0 200312 670 00022500000

| | |
|------------------------|---------------|
| Notice | CP15 |
| Tax Year | 2003 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |
| Page 2 of 2 | 17H |

We charged you a penalty for promoting an abusive tax shelter. The penalty for activity described in IRC section 6700(a)(1) is the lesser of \$1,000 or 100 percent of the gross income derived (or to be derived) from the activity.

The penalty for making or furnishing (or causing another person to make or furnish) a statement described in IRC section 6700(a)(2)(A) is 50 percent of the gross income derived (or to be derived) from the activity.

There is no maximum amount of penalty.

For a detailed calculation of the penalty, please refer to the penalty calculation worksheet provided to you at the conclusion of the penalty investigation.

If you want to contest the IRC section 6700 penalty we assessed, you must follow one of the two procedures below:

- (i) Pay the entire amount assessed and file a claim for refund of the amount paid using a Form 6118 at any time not later than 2 years after the date of payment. If we deny your claim or 6 months passes from the date you file your claim, you may file a refund suit in United States district court or the Court of Federal Claims. Any refund suit must be filed within two years of denial of your refund claim. Alternatively,
- (ii) Within 30 days after the date of this Notice and Demand, pay an amount which is not less than 15 percent of the penalty and file a claim for refund on a Form 6118 for the amount paid. You may file suit in United States district court within 30 days after the date we deny your claim, or if earlier, within 30 days after the expiration of six months from the date you filed your claim. Forms 6118 are available at most IRS offices, on the IRS website at www.irs.gov, or you can order one by calling toll-free 1-800-829-3676

For tax forms, instructions and information visit www.irs.gov. Access to this site will not provide you with any taxpayer account information.



ROBERT L SCHULZ
%SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

| | |
|------------------------|---------------|
| Notice | CP15 |
| Notice date | March 9, 2015 |
| Social Security number | [REDACTED] |



Contact information

If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.
☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CVL PEN) on any correspondence.

| | |
|--|--|
| <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. | <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. |
| Primary phone | Best time to call |
| Secondary phone | Best time to call |

INTERNAL REVENUE SERVICE
ANDOVER, MA 01810-9052



111304460 YQ SCHU 55 0 200312

Samuel Lambert

From: trackingupdates@fedex.com
 Sent: Tuesday, April 07, 2015 7:31 AM
 To: Samuel Lambert
 Subject: FedEx Shipment 773302882615 Delivered

fedex.com | Ship | Track | Manage | Learn | Office/Print Services

Your package has been delivered

Tracking # 773302882615

Ship (P/U) date:
Monday, 4/6/15

Samuel Lambert
 Ray Quinney & Nebeker
 Salt Lake City, UT 84111
 US



Delivered

Delivery date:
Tuesday, 4/7/15 9:27
AM

Internal Revenue Service
 Department of the Treasury
 Andover, MA 01810
 US

Shipment Facts

Our records indicate that the following package has been delivered.

| | |
|----------------------------|---|
| Tracking number: | <u>773302882615</u> |
| Status: | Delivered: 04/07/2015 09:27
AM Signed for By: C.PLANTE |
| Reference: | 46227-1 |
| Signed for by: | C.PLANTE |
| Delivery location: | Andover, MA |
| Delivered to: | Shipping/Receiving |
| Service type: | FedEx Standard Overnight |
| Packaging type: | FedEx Box |
| Number of pieces: | 1 |
| Weight: | 10.00 lb. |
| Special handling/Services: | Deliver Weekday |

☒ Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 8:30 AM CDT on 04/07/2015.

To learn more about FedEx Express, please go to fedex.com

All weights are estimated.



Ship Track Manage Learn FedEx Office®

Login

FedEx Tracking

773302882615

Ship (PAU) date:
Mon 4/06/2015 4:50 pmActual delivery:
Tues 4/07/2015 9:27 am

Salt Lake City, UT US

Andover, MA US

**Delivered**

Signed for by: C.PLANTE

Travel History

| ▲ Date/Time | Activity | Location |
|-----------------------|------------------------------------|-----------------|
| - 4/07/2015 - Tuesday | | |
| 9:27 am | Delivered | Andover, MA |
| 8:04 am | On FedEx vehicle for delivery | WILMINGTON, MA |
| 7:26 am | At local FedEx facility | WILMINGTON, MA |
| 6:14 am | At destination sort facility | EAST BOSTON, MA |
| 2:46 am | Departed FedEx location | MEMPHIS, TN |
| 12:23 am | Arrived at FedEx location | MEMPHIS, TN |
| - 4/06/2015 - Monday | | |
| 7:20 pm | Left FedEx origin facility | WEST VALLEY, UT |
| 4:50 pm | Picked up | WEST VALLEY, UT |
| 4:22 pm | Shipment information sent to FedEx | |

Shipment Facts

| | | | |
|-----------------------|--------------------|--------------------------|--------------------------|
| Tracking number | 773302882615 | Service | FedEx Standard Overnight |
| Weight | 10 lbs / 4.54 kgs | Dimensions | 12x12x12 in. |
| Delivered to | Shipping/Receiving | Total pieces | 1 |
| Total shipment weight | 10 lbs / 4.54 kgs | Shipper reference | 46227-1 |
| Packaging | FedEx Box | Special handling section | Deliver Weekday |



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Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9041

027589.547565.423839.18983 2 MB 0.435 1188



| | |
|------------------------|----------------------|
| Notice | CP503 |
| Tax Year | 2003 |
| Notice date | April 13, 2015 |
| Social Security number | [REDACTED] |
| To contact us | Phone 1-800-829-0922 |
| Your Caller ID | 892996 |

Page 1 of 3

ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

Second reminder: You have unpaid taxes for December 31, 2003

Amount due: *

As we notified you before, our records show you have unpaid taxes for the tax year ending December 31, 2003 (Form CIVPEN). If you don't pay * by April 23, 2015, interest will increase and additional penalties may apply.

Billing Summary

| | |
|------------------|----------------|
| Amount you owed | \$225,000.00 * |
| Interest charges | 648.17 |

Amount due by April 23, 2015

*Please call 1-800-829-0922 for penalty and interest charges and remaining balance.

What you need to do immediately

Pay immediately

- Pay the amount due of * by April 23, 2015, to avoid additional penalty and interest charges. You can pay online now at www.irs.gov/e-pay.

Continued on back...



ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

| | |
|------------------------|----------------|
| Notice | CP503 |
| Notice date | April 13, 2015 |
| Social Security number | [REDACTED] |



Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CIVPEN) on your payment and any correspondence.

**Amount due by
April 23, 2015**

INTERNAL REVENUE SERVICE
FRESNO, CA 93888-0419



111304460 YQ SCHU 55 0 200312 670 000000000000

| | |
|------------------------|----------------|
| | WI |
| Notice | CP503 |
| Tax Year | 2003 |
| Notice date | April 13, 2015 |
| Social Security number | [REDACTED] |

Page 2 of 3

If we don't hear from you

- If you don't pay * by April 23, 2015, interest will increase and additional penalties may apply.
- If you don't pay the amount due or call us to make payment arrangements, we can file a Notice of Federal Tax Lien on your property at any time, if we haven't already done so.
- If the lien is in place, you may find it difficult to sell or borrow against your property. The tax lien would also appear on your credit report—which may harm your credit rating—and your creditors would also be publicly notified that the IRS has priority to seize your property.
- If you don't pay your tax debt, we have the right to seize ("levy") your property.

Interest charges

We are required by law to charge interest on unpaid tax from the date the tax return was due to the date the tax is paid in full. The interest is charged as long as there is an unpaid amount due, including penalties, if applicable. (Internal Revenue Code section 6601)

| Description | Amount |
|-----------------------|-----------------|
| Total interest | \$648.17 |

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-0922.

| Period | Interest rate |
|--|---------------|
| October 1, 2003 through March 31, 2004 | 4% |
| April 1, 2004 through June 30, 2004 | 5% |
| July 1, 2004 through September 30, 2004 | 4% |
| October 1, 2004 through March 31, 2005 | 5% |
| April 1, 2005 through September 30, 2005 | 6% |
| October 1, 2005 through June 30, 2006 | 7% |
| July 1, 2006 through December 31, 2007 | 8% |
| January 1, 2008 through March 31, 2008 | 7% |



ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

| | |
|------------------------|----------------|
| Notice | CP503 |
| Notice date | April 13, 2015 |
| Social Security number | [REDACTED] |



Contact information

INTERNAL REVENUE SERVICE
P.O. BOX 9052
ANDOVER, MA 01810-9052



If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

- ☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CIVPEN) on any correspondence.

| | |
|--|--|
| <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. | <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. |
| Primary phone | Best time to call |
| Secondary phone | Best time to call |

| | |
|------------------------|----------------|
| Notice | CP503 |
| Tax Year | 2003 |
| Notice date | April 13, 2015 |
| Social Security number | [REDACTED] |

Page 3 of 3

Interest charges—continued

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-0922.

| Period | Interest rate |
|---|---------------|
| April 1, 2008 through June 30, 2008 | 6% |
| July 1, 2008 through September 30, 2008 | 5% |
| October 1, 2008 through December 31, 2008 | 6% |
| January 1, 2009 through March 31, 2009 | 5% |
| April 1, 2009 through December 31, 2010 | 4% |
| January 1, 2011 through March 31, 2011 | 3% |
| April 1, 2011 through September 30, 2011 | 4% |
| October 1, 2011 through December 31, 2011 | 3% |
| January 1, 2012 through March 31, 2012 | 3% |
| April 1, 2012 through June 30, 2012 | 3% |
| July 1, 2012 through September 30, 2012 | 3% |
| October 1, 2012 through December 31, 2012 | 3% |
| January 1, 2013 through March 31, 2013 | 3% |
| April 1, 2013 through June 30, 2013 | 3% |
| July 1, 2013 through September 30, 2013 | 3% |
| October 1, 2013 through December 31, 2013 | 3% |
| January 1, 2014 through March 31, 2014 | 3% |
| April 1, 2014 through June 30, 2014 | 3% |
| July 1, 2014 through September 30, 2014 | 3% |
| October 1, 2014 through December 31, 2014 | 3% |
| January 1, 2015 through March 31, 2015 | 3% |

Additional information

- Visit www.irs.gov/cp503
- For tax forms, instructions, and publications, visit www.irs.gov or call 1-800-TAX-FORM (1-800-829-3676).
- Paying online is convenient, secure, and ensures timely receipt of your payment. To pay your taxes online or for more information, go to www.irs.gov/e-pay.
- Keep this notice for your records

If you need assistance, please don't hesitate to contact us.



Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9041



9307 1107 5660 1484 0054 16

146481.557951.4F2364.20277 2 AB 0.406 1150



| | |
|------------------------|----------------------|
| Notice | CP504 |
| Tax Year | 2003 |
| Notice date | May 18, 2015 |
| Social Security number | [REDACTED] |
| To contact us | Phone 1-800-829-0922 |
| Your Caller ID | 892996 |

Page 1 of 3

ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

Notice of intent to seize ("levy") your state tax refund or other property

Amount due immediately: *

As we notified you before, our records show you have unpaid taxes for the tax year ending December 31, 2003 (Form CIVPEN). If you don't call us immediately or pay the amount due, we may seize ("levy") your property or rights to property (including any state tax refunds) and apply it to the * you owe.

Billing Summary

| | |
|-------------------------------|----------------|
| Amount you owed | \$224,000.00 * |
| Interest charges | 1,294.91 |
| Amount due immediately | * |

*Please call 1-800-829-0922 for penalty and interest charges and remaining balance.

What you need to do immediately

Pay immediately

- Pay the amount due of * or we may seize ("levy") your property or rights to property (including any state tax refunds). If you fail to pay by May 28, 2015, interest will increase and additional penalties may apply. You can pay online now at www.irs.gov/e-pay.

Continued on back...



ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

| | |
|------------------------|--------------|
| Notice | CP504 |
| Notice date | May 18, 2015 |
| Social Security number | [REDACTED] |



Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CIVPEN) on your payment and any correspondence.

Amount due immediately

INTERNAL REVENUE SERVICE
FRESNO, CA 93888-0419



111304460 YQ SCHU 55 0 200312 670 000000000000

| | |
|------------------------|--------------|
| | WI |
| Notice | CP504 |
| Tax Year | 2003 |
| Notice date | May 18, 2015 |
| Social Security number | [REDACTED] |
| Page 2 of 3 | |

If we don't hear from you

- If you don't pay or make payment arrangements by May 28, 2015, we may seize ("levy") your property or rights to property (including any state refund).
- Property and your rights to property include:
 - Wages, real estate commissions, and other income
 - Bank accounts
 - Personal assets (e.g., your car and home)
 - Social Security benefits
- This is your Notice of Intent to Levy. (Internal Revenue Code section 6331 (d)).
- If you don't pay the amount due or call us to make payment arrangements, we may file a Notice of Federal Tax Lien on your property at any time, if we haven't already done so.
- If the lien is filed, you may find it difficult to sell or borrow against your property. The Notice of Federal Tax Lien would also appear on your credit report – which may harm your credit rating – and your creditors would also be publicly notified that the IRS has priority to seize your property.

Interest charges

We are required by law to charge interest on unpaid tax from the date the tax return was due to the date the tax is paid in full. The interest is charged as long as there is an unpaid amount due, including penalties, if applicable. (Internal Revenue Code section 6601)

| Description | Amount |
|----------------|------------|
| Total interest | \$1,294.91 |

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-0922.

| Period | Interest rate |
|---|---------------|
| October 1, 2003 through March 31, 2004 | 4% |
| April 1, 2004 through June 30, 2004 | 5% |
| July 1, 2004 through September 30, 2004 | 4% |



ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943580

| | |
|------------------------|---------------|
| Notice | CP504 |
| Notice date | May 18, 2015* |
| Social Security number | [REDACTED] |



Contact information

INTERNAL REVENUE SERVICE
P.O. BOX 9052
ANDOVER, MA 01810-9052



If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

- ☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CIVPEN) on any correspondence.

| | |
|-------------------------------|-------------------------------|
| <input type="checkbox"/> a.m. | <input type="checkbox"/> a.m. |
| <input type="checkbox"/> p.m. | <input type="checkbox"/> p.m. |

Primary phone Best time to call Secondary phone Best time to call

| | |
|------------------------|--------------|
| | WI |
| Notice | CP504 |
| Tax Year | 2003 |
| Notice date | May 18, 2015 |
| Social Security number | [REDACTED] |
| Page 2 of 3 | |

If we don't hear from you

- If you don't pay or make payment arrangements by May 28, 2015, we may seize ("levy") your property or rights to property (including any state refund).
- Property and your rights to property include:
 - Wages, real estate commissions, and other income
 - Bank accounts
 - Personal assets (e.g., your car and home)
 - Social Security benefits
- This is your Notice of Intent to Levy. (Internal Revenue Code section 6331 (d)).
- If you don't pay the amount due or call us to make payment arrangements, we may file a Notice of Federal Tax Lien on your property at any time, if we haven't already done so.
- If the lien is filed, you may find it difficult to sell or borrow against your property. The Notice of Federal Tax Lien would also appear on your credit report – which may harm your credit rating – and your creditors would also be publicly notified that the IRS has priority to seize your property.

Interest charges

We are required by law to charge interest on unpaid tax from the date the tax return was due to the date the tax is paid in full. The interest is charged as long as there is an unpaid amount due, including penalties, if applicable. (Internal Revenue Code section 6601)

| Description | Amount |
|----------------|------------|
| Total interest | \$1,294.91 |

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-0922.

| Period | Interest rate |
|---|---------------|
| October 1, 2003 through March 31, 2004 | 4% |
| April 1, 2004 through June 30, 2004 | 5% |
| July 1, 2004 through September 30, 2004 | 4% |



ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12004-6943S80

Notice CP504
Notice date May 18, 2015
Social Security number [REDACTED]



Contact information

INTERNAL REVENUE SERVICE
P.O. BOX 9052
ANDOVER, MA 01810-9052



If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

☐ Please check here if you've included any correspondence. Write your Social Security number (111-30-4460), the tax year (2003), and the form number (CIVPEN) on any correspondence.

Primary phone ☐ a.m. ☐ p.m. Best time to call Secondary phone ☐ a.m. ☐ p.m. Best time to call

| | |
|------------------------|--------------|
| | WI |
| Notice | CP504 |
| Tax Year | 2003 |
| Notice date | May 18, 2015 |
| Social Security number | ██████████ |

Page 3 of 3

Interest charges—continued

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-0922.

| Period | Interest rate |
|---|---------------|
| October 1, 2004 through March 31, 2005 | 5% |
| April 1, 2005 through September 30, 2005 | 6% |
| October 1, 2005 through June 30, 2006 | 7% |
| July 1, 2006 through December 31, 2007 | 8% |
| January 1, 2008 through March 31, 2008 | 7% |
| April 1, 2008 through June 30, 2008 | 6% |
| July 1, 2008 through September 30, 2008 | 5% |
| October 1, 2008 through December 31, 2008 | 6% |
| January 1, 2009 through March 31, 2009 | 5% |
| April 1, 2009 through December 31, 2010 | 4% |
| January 1, 2011 through March 31, 2011 | 3% |
| April 1, 2011 through September 30, 2011 | 4% |
| October 1, 2011 through December 31, 2011 | 3% |
| January 1, 2012 through March 31, 2012 | 3% |
| April 1, 2012 through June 30, 2012 | 3% |
| July 1, 2012 through September 30, 2012 | 3% |
| October 1, 2012 through December 31, 2012 | 3% |
| January 1, 2013 through March 31, 2013 | 3% |
| April 1, 2013 through June 30, 2013 | 3% |
| July 1, 2013 through September 30, 2013 | 3% |
| October 1, 2013 through December 31, 2013 | 3% |
| January 1, 2014 through March 31, 2014 | 3% |
| April 1, 2014 through June 30, 2014 | 3% |
| July 1, 2014 through September 30, 2014 | 3% |
| October 1, 2014 through December 31, 2014 | 3% |
| January 1, 2015 through March 31, 2015 | 3% |

Additional information

- Visit www.irs.gov/cp504
- For tax forms, instructions, and publications, visit www.irs.gov or call 1-800-TAX-FORM (1-800-829-3676).
- Review the enclosed IRS Collection Process (Publication 594).
- Generally, we deal directly with taxpayers or their authorized representatives. Sometimes, however, it's necessary for us to speak with other people, such as employees, employers, banks, or neighbors to gather the information we need about a taxpayer's account. You have the right to request a list of individuals we've contacted in connection with your account at any time.
- Paying online is convenient, secure, and ensures timely receipt of your payment. To pay your taxes online or for more information, go to www.irs.gov/e-pay.
- Keep this notice for your records

If you need assistance, please don't hesitate to contact us.



Department of Treasury
Internal Revenue Service
ACS Support - Stop 5050
P.O. Box 219236
Kansas City, MO 64121-9236

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice Date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |
| To contact us | 1-800-829-7650 |

Page 1 of 4

006503.583945.30707.23501 1 MB 0.439 700

[Barcode]

ROBERT L SCHULZ
C/O SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111

08503

Notice of intent to levy

Intent to seize your property or rights to property**Amount due immediately: \$227,284.93**

We haven't received a payment despite sending you several notices about your overdue taxes. The IRS may seize (levy) your property or your rights to property on or after September 2, 2015.

Property includes:

- Wages and other income
- Bank accounts
- Business assets
- Personal assets (including your car and home)
- Alaska Permanent Fund Dividend and state tax refund
- Social Security benefits

Billing Summary

| | |
|-------------------------------|---------------------|
| Amount you owed | \$224,000.00 |
| Additional interest charges | 3,284.93 |
| Amount due immediately | \$227,284.93 |

Continued on back...



ROBERT L SCHULZ
C/O SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |

**Payment**

- Make your check or money order payable to the United States Treasury.
- Write your Taxpayer ID number (XXX-XX-4460) and the tax period(s) on your payment and any correspondence.

Amount due**\$227,284.93**

INTERNAL REVENUE SERVICE
ACS SUPPORT - STOP 5050
P.O. BOX 219236
KANSAS CITY, MO 64121-9236

[Barcode]

XXXXX4460 00

SCHU 55 0 200312

00022728493

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice Date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |

Page 2 of 4

What you need to do immediately

Pay immediately

- Send us the amount due of \$227,284.93, or we may seize (levy) your property on or after September 2, 2015.
 - If you can't pay the amount due, pay as much as you can now and make payment arrangements that allow you to pay off the rest over time. Visit www.irs.gov/payments for more information about:
 - Installment and payment agreements-download required forms or save time and money by applying online if you qualify
 - Automatic deductions from your bank account
 - Payroll deductions
 - Credit card payments
- Or, call us at 1-800-829-7650 to discuss your options.
- If you've already paid your balance in full or think we haven't credited a payment to your account, please send proof of that payment.

Right to request a Collection Due Process hearing

If you wish to appeal this proposed levy action, complete and mail the enclosed Form 12153, Request for a Collection Due Process or Equivalent Hearing, by September 2, 2015. Send the form to us at the address listed at the top of page 1. Be sure to include the reason you are requesting a hearing (see section 8 of, and the instructions to, Form 12153) as well as other information requested by the form. If you don't file Form 12153 by September 2, 2015, you will lose the ability to contest Appeals' decision in the U.S. Tax Court.



ROBERT L SCHULZ
C/O SAMUEL A LAMBERT
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |



Contact information

INTERNAL REVENUE SERVICE
ACS SUPPORT - STOP 5050
P.O. BOX 219236
KANSAS CITY, MO 64121-9236

If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.
☐ Please check here if you've included any correspondence. Write your Taxpayer ID number (XXX-XX-4460) and the tax period(s) on any correspondence.

| | |
|--|--|
| <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. | <input type="checkbox"/> a.m.
<input type="checkbox"/> p.m. |
| Primary phone | Best time to call |
| Secondary phone | Best time to call |

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice Date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |

Page 3 of 4

What you need to do immediately – continued



68503

About Federal Tax Liens

The tax lien is a claim against all of your property that arises once you have not paid your bill. If you don't pay the amount due or call us to make payment arrangements, we can file a Notice of Federal Tax Lien at any time, if we haven't already done so. The Notice of Federal Tax Lien publically notifies your creditors that the IRS has a lien (or claim) against all your property, including property acquired by you after the Notice of Federal Tax Lien is filed. Once the lien's notice to creditors has been filed, it may appear on your credit report and may harm your credit rating or make it difficult for you to get credit (such as a loan or credit card). It cannot be released until your bill, including interest, penalties, and fees, is paid in full, we accept a bond guaranteeing payment of the amount owed, or we determine that you don't owe or the liability is reduced to zero. The lien's notice to creditors may be withdrawn under certain circumstances. You can find additional information about tax liens, including helpful videos, at <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Understanding-a-Federal-Tax-Lien> or by typing lien in the IRS.gov search box.

If we don't hear from you

If you don't call us immediately, pay the amount due, or request a hearing by **September 2, 2015**, we may seize (levy) your property or your rights to property.

Property includes:

- Wages and other income
- Bank accounts
- Business assets
- Personal assets (including your car and home)
- Social Security benefits

Your billing details

| Tax period ending | Form number | Amount you owed | Additional interest | Additional penalty | Total |
|-------------------|-------------|-----------------|---------------------|--------------------|--------------|
| 12/31/2003 | CIVPEN | \$224,000.00 | \$3,284.93 | \$0.00 | \$227,284.93 |

Interest charges

We are required by law to charge interest when you don't pay your liability on time. Generally, we calculate interest from the due date of your return (regardless of extensions) until you pay the amount you owe in full, including accrued interest and any penalty charges. Interest on some penalties accrues from the date we notify you of the penalty until it is paid in full. Interest on other penalties, such as failure to file a tax return, starts from the due date or extended due date of the return. Interest rates are variable and may change quarterly. (Internal Revenue Code Section 6601)

For a detailed calculation of your interest, call 1-800-829-7650.

Continued on back...

| | |
|-----------------------|----------------|
| Notice | LT11 |
| Notice Date | August 3, 2015 |
| Taxpayer ID number | XXX-XX-XXXX |
| Case reference number | 3272926493 |

Page 4 of 4

Additional information

- Visit www.irs.gov/lt11
- For tax forms, instructions and publications, visit www.irs.gov or call 1-800-TAX FORM (1-800-829-3676).
- Review the enclosed documents:
 - IRS Collection Process (Publication 594)
 - Collection Appeals Rights (Publication 1660)
 - Request for a Collection Due Process Hearing (Form 12153)
- Keep this notice for your records.

If you need assistance, please don't hesitate to contact us.

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

August 6, 2015

VIA US POSTAL SERVICE

Department of the Treasury
Internal Revenue Service
Andover, MA 01810-9052

Re: Robert L. Schulz
SSN: [REDACTED]

TO WHOM IT MAY CONCERN:

PLEASE TAKE NOTICE, this is the second time the enclosures have been sent to you.

The first time was on April 6, 2015, when they were sent to you via FedEx by Samuel Lambert, my attorney in Salt Lake City, Utah. They were delivered to the IRS at the above address in Andover, MA on April 7, 2015 and signed for by one "C. PLANTE." See Delivery Confirmation attached to this letter.

Neither Mr. Lambert nor I have ever received a letter from you indicating your receipt of Mr. Lambert's April 6, 2015 letter and enclosures.

I have been told by telephone by IRS employees in Collections and the Taxpayer Advocate that the IRS system does not show IRS receipt of these materials. Collections advised that I send the materials again.

Enclosed is a copy of Mr. Lambert's letter of April 6, 2015, with its five enclosures, which constituted a claim for refund pursuant to IRC Section 6703(c)(1).

If you have any questions, please contact my attorney, Mr. Lambert, whose contact information is on the enclosed Form 2848

Very truly yours,


Robert L. Schulz

CC: Samuel Lambert



USPS Tracking®



Customer Service ›
Have questions? We're here to help.



Get Easy Tracking Updates ›
Sign up for My USPS.

Tracking Number: 70150640000598624681

Updated Delivery Day: Monday, August 10, 2015

Product & Tracking Information

Postal Product:
Priority Mail 2-Day™

Features:

Certified Mail™
Up to \$50 insurance included
Restrictions Apply

Return Receipt

See tracking for related item: 9590940302215146437411

Text Updates

Email Updates

Available Actions

| DATE & TIME | STATUS OF ITEM | LOCATION |
|---|---|----------------------------|
| August 8, 2015, 11:54 am | Delivered | ANDOVER, MA 01810 |
| Your item was delivered at 11:54 am on August 8, 2015 in ANDOVER, MA 01810. | | |
| August 8, 2015, 10:51 am | Arrived at Unit | ANDOVER, MA 01810 |
| August 8, 2015, 6:03 am | Departed USPS Facility | NORTH
READING, MA 01889 |
| August 7, 2015, 11:18 pm | Arrived at USPS Destination
Facility | NORTH
READING, MA 01889 |
| August 6, 2015, 5:18 pm | Departed Post Office | GLENS FALLS, NY 12801 |
| August 6, 2015, 2:45 pm | Acceptance | GLENS FALLS, NY 12801 |

Track Another Package

Tracking (or receipt) number


Track It

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

Sign up for My USPS ›



| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY | | |
|---|--|---|--|
| <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature
 X INTERNAL REVENUE <input type="checkbox"/> Agent
 <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)
 N OVER MA 0551</p> <p>C. Date of Delivery
 Aug - 9 2015</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes
 If YES, enter delivery address below: <input type="checkbox"/> No</p> | | |
| <p>1. Article Addressed to:</p> <p>DEPT. OF THE TREASURY
 INTERNAL REVENUE SERVICE
 ANDOVER, MA 01810-9052</p> <p></p> <p>9590 9403 0221 5146 4374 11</p> | <p>3. Service Type</p> <table border="0"> <tr> <td> <input type="checkbox"/> Adult Signature
 <input type="checkbox"/> Adult Signature Restricted Delivery
 <input checked="" type="checkbox"/> Certified Mail®
 <input type="checkbox"/> Certified Mail Restricted Delivery
 <input type="checkbox"/> Collect on Delivery
 <input type="checkbox"/> Collect on Delivery Restricted Delivery
 <input type="checkbox"/> Insured Mail
 <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) </td> <td> <input type="checkbox"/> Priority Mail Express®
 <input type="checkbox"/> Registered Mail™
 <input type="checkbox"/> Registered Mail Restricted Delivery
 <input type="checkbox"/> Return Receipt for Merchandise
 <input type="checkbox"/> Signature Confirmation™
 <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table> | <input type="checkbox"/> Adult Signature
<input type="checkbox"/> Adult Signature Restricted Delivery
<input checked="" type="checkbox"/> Certified Mail®
<input type="checkbox"/> Certified Mail Restricted Delivery
<input type="checkbox"/> Collect on Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery
<input type="checkbox"/> Insured Mail
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | <input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Adult Signature
<input type="checkbox"/> Adult Signature Restricted Delivery
<input checked="" type="checkbox"/> Certified Mail®
<input type="checkbox"/> Certified Mail Restricted Delivery
<input type="checkbox"/> Collect on Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery
<input type="checkbox"/> Insured Mail
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | <input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Signature Confirmation Restricted Delivery | | |
| <p>2. Article Number (Transfer from service label)</p> <p>7015 0640 0005 7862 4681</p> | | | |
| <p>PS Form 3811, April 2015 PSN 7530-02-000-9053</p> | | | |

BOSTON
UNITED STATES POSTAL SERVICE
11 AUG '15
PM 3 L



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

**ROBERT SCHULZ
2458 RIDGE ROAD
QUEENS BURY, N.Y. 12804**

USPS TRACKING#



9590 9403 0221 5146 4374 11

U.S. Postal Service[®]
CERTIFIED MAIL[®] RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

7015 0640 0005 9862 4681

Certified Mail Fee \$3.45 0801 17

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$2.80

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$15.55

Total Postage and Fees \$21.80

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4[®]

PS Form 3800, April 2013 PSN 7530-02-000-9037 See Reverse for Instructions

GLENS FALLS
 16 HUDSON AVE
 GLENS FALLS
 NY

128019998

08/06/2015 (800)275-8777 2:48 PM

| Product Description | Sale Qty | Final Price |
|---------------------|----------|-------------|
|---------------------|----------|-------------|

| | | |
|----------|---|---------|
| PM 2-Day | 1 | \$15.55 |
|----------|---|---------|

(Domestic)
 (ANDOVER, MA 01810)
 (Weight: 16 Lb 10.6 Oz)
 (Expected Delivery Day)
 (Saturday 08/08/2015)

| | | |
|-----------|---|--------|
| Certified | 1 | \$3.45 |
|-----------|---|--------|

(@USPS Certified Mail #)

(70150640000598624681)

| | | |
|----------------|---|--------|
| Return Receipt | 1 | \$2.80 |
|----------------|---|--------|

(@USPS Return Receipt #)

(9590940302215146437411)

| | |
|-------|---------|
| Total | \$21.80 |
|-------|---------|

| | |
|------------------|---------|
| Person/Bus Check | \$21.80 |
|------------------|---------|

For tracking or inquiries go to
 USPS.com or call 1-800-222-1811.

 BRIGHTEN SOMEONE'S MAILBOX. Greeting
 cards available for purchase at select
 Post Offices.

In a hurry? Self-service kiosks offer
 quick and easy check-out. Any Retail
 Associate can show you how.

Save this receipt as evidence of
 insurance. For information on filing

Department of the Treasury
Internal Revenue ServiceP.O. Box 219236, Stop P-4 5050
Kansas City MO 64121-9236In reply refer to: -----
Oct. 14, 2015 LTR 2645C 3
200312 55 1
Input Op: 0976622210 00014155
BODC: WIROBERT L SCHULZ
% SAMUEL A LAMBERT
RAY QUINNEY & NEBEKER PC
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

000920

Taxpayer identification number: [REDACTED]
Tax periods: Dec. 31, 2003

Form: Civil Penalty

Dear Taxpayer:

Thank you for your inquiry of Sep. 15, 2015.

We haven't resolved this matter because we haven't completed all the processing necessary for a complete response. However, we'll contact you again within 90 days with our reply. You don't need to take any further action now on this matter.

If you have questions, you can call us toll free at 8008297650.

If you prefer, you can write to us at the address at the top of the first page of this letter. However, you don't need to take any further action at this time.

You can get any of the forms or publications mentioned in this letter by calling 1-800-TAX-FORM (1-800-829-3676) or visiting our website at www.irs.gov/formspubs.

When you write, include this letter and provide in the spaces below your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

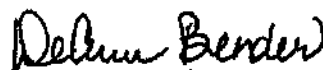
Your telephone number (____) _____ Hours _____

Thank you for your cooperation.

0976622210
Oct. 14, 2015 LTR 2645C 3
[REDACTED] 200312 55 1
Input Op: 0976622210 00014156

ROBERT L SCHULZ
% SAMUEL A LAMBERT
RAY QUINNEY & NEBEKER PC
36 S STATE ST STE 1400
SALT LAKE CITY UT 84111-1451

Sincerely yours,



DeAnn Bender
Operations Mgr., ACS Support



U.S. Department of Justice

Tax Division

Trial Attorney:
Attorney's Direct Line: 202-307-6533
Fax No. 202-514-5238

Please reply to: Civil Trial Section, Northern Region
P.O. Box 55
Washington, D.C. 20044

CDC:DPMullarkey:kcgh
5-50-6051
2016100267

November 10, 2015

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

Re: Robert L. Schulz v. United States of America
Case No. 1:15-CV-01299 (USDC ND New York)

Dear Mr. Schulz:

The Tax Division has received the Complaint you filed in this case. Our office will be primarily responsible for the handling of the Government's defense and, in that regard, we will prepare and serve upon you the Government's pleading in response to your complaint. The responsive pleading will usually identify, by name, the trial attorney in our office who is assigned to the case.

It will help us in the expeditious handling of the case if you will serve both the United States Attorney's office and this office with copies of any papers filed with the Court, and if your correspondence would show not only the style of the case but also the hyphenated number at the top left margin of this letter. The best mailing address for sending materials to this office is:

CTS, Northern Region
Tax Division
Department of Justice
P.O. Box 55
Ben Franklin Station
Washington, D.C. 20044

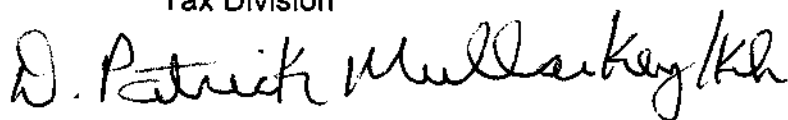
- 2 -

We have not yet had an opportunity to decide whether this case is susceptible of settlement. However, if you should conclude, at a later date, that you wish to explore settlement possibilities, the enclosed general information concerning settlement of tax return suits may be helpful to you in discussing such possibilities with our trial attorney at the proper time. Meanwhile, we will be proceeding with preparation for discovery, pre-trial and trial.

Sincerely yours,

CAROLINE D. CIRAULO
Acting Assistant Attorney General
Tax Division

By:



D. PATRICK MULLARKEY
Chief, Civil Trial Section
Northern Region

Enclosure

**IRS**Department of the Treasury
Internal Revenue Service

Case 1:15-cv-01299-BKS-CFH Document 8 Filed 01/04/16 Page 55 of 62

P.O.Box 219236, Stop P-4 5050
Kansas City MO 64121-9236**EXHIBIT J**

In reply refer to: 0976726630
Nov. 13, 2015 LTR 2645C 0
[REDACTED] 200312 55 0
00018348
BODC: WI

ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943



018779

Taxpayer identification number: [REDACTED]
Tax periods: Dec. 31, 2003

Form: 12153

Dear Taxpayer:

Thank you for your correspondence of Sep. 15, 2015.

We haven't resolved this matter because we haven't completed all the processing necessary for a complete response. However, we'll contact you again within 30 days with our reply. You don't need to take any further action now on this matter.

If you have questions, you can call us toll free at 1-800-829-7650.

If you prefer, you can write to us at the address at the top of the first page of this letter. However, you don't need to take any further action at this time.

You can get any of the forms or publications mentioned in this letter by calling 1-800-TAX-FORM (1-800-829-3676) or visiting our website at www.irs.gov/formspubs.

When you write, include this letter and provide in the spaces below your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Your telephone number (____) _____ Hours _____

Thank you for your cooperation.

A copy of this letter and any referenced enclosures have been forwarded to your authorized representative(s).

0976726630

Nov. 13, 2015 LTR 2645C 0

~~REDACTED~~ 200312 55 0

00018349

ROBERT L SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943

Sincerely yours,



DeAnn Bender
Operations Mgr., ACS Support

**IRS**Department of the Treasury
Internal Revenue Service

KANSAS CITY MO 64999-0025

In reply refer to: 0938000000
Nov. 24, 2015 LTR 2645C K0
201312 30
Input Op: 0909960080 00020093
BODC: WIROBERT L & JUDITH A SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943Taxpayer identification number: [REDACTED]
Tax periods: Dec. 31, 2013

Form: 1040

Dear Taxpayer:

We received one of the following items from you or your authorized third party on Aug. 10, 2015.

- Correspondence
- Telephone inquiry
- Payment
- Form
- Response to our inquiry or notice
- Penalty abatement request
- Installment agreement
- Other

We're working on your account. In order to provide a complete response, we need an additional 45 days to let you know what action we are taking on your account. You don't need to take any further action now on this matter.

If you have questions, you can call us toll free at 1-800-829-0922.

If you prefer, you can write to us at the address at the top of the first page of this letter. However, you don't need to take any further action at this time.

You can get any of the forms or publications mentioned in this letter by calling 1-800-TAX-FORM (1-800-829-3676) or visiting our website at www.irs.gov/formspubs.

When you write, include this letter and provide in the spaces below your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Your telephone number (____) _____ Hours _____

Thank you for your cooperation.

0938000000

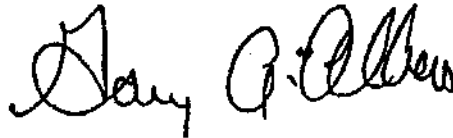
Nov. 24, 2015 LTR 2645C K0

~~XXXXXXXXXX~~ 201312 30

Input Op: 0909960080 00020094

ROBERT L & JUDITH A SCHULZ
2458 RIDGE RD
QUEENSBURY NY 12804-6943

Sincerely yours,

A handwritten signature in black ink, appearing to read "Gary A. Albers". The signature is fluid and cursive, with the first name "Gary" being more prominent.

Gary A. Albers
Operations Manager, AM OPs 1

Form 668 (Y)(c)
(Rev. February 2004)

1872

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #1
(800) 913-6050Serial Number
187402115

For Optional Use by Recording Office

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer
ROBERT L SCHULTZResidence
2458 RIDGE ROAD
QUEENSBURY, NY 12804-6943

- This Notice of Federal Tax Lien has been filed as a matter of public record.
- IRS will continue to charge penalty and interest until you satisfy the amount you owe.
- Contact the Area Office Collection Function for information on the amount you must pay before we can release this lien.
- See the back of this page for an explanation of your Administrative Appeal rights.

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

| Kind of Tax
(a) | Tax Period
Ending
(b) | Identifying Number
(c) | Date of
Assessment
(d) | Last Day for
Refiling
(e) | Unpaid Balance
of Assessment
(f) |
|--|-----------------------------|---------------------------|------------------------------|---------------------------------|--|
| 6700 | 12/31/2003 | XXX-XX- XXXX | 03/09/2015 | 04/08/2025 | 224000.00 |
| Place of Filing
WARREN COUNTY CLERK
WARREN COUNTY
LAKE GEORGE, NY 12845 | | | | | Total
224000.00 |

This notice was prepared and signed at MANHATTAN, NY, on this,
the 24th day of November, 2015.

Signature

for HOLLY NICHOLSON

Title

REVENUE OFFICER
(845) 340-2533

21-15-2725

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 3 - Taxpayer's Copy

CAT. NO 60025X
Form 668 (Y)(c) (Rev. 02-04)

Lien

This Notice of Federal Tax Lien gives public notice that the government has a lien on all your property (such as your house or car), all your rights to property (such as money owed to you) and to property you acquire after this lien is filed.

Your Administrative Appeal Rights

If you believe the IRS filed this Notice of Federal Tax Lien in error, you may appeal if any of the following conditions apply:

- You had paid all tax, penalty and interest before the lien was filed;
- IRS assessed tax after the date you filed a petition for bankruptcy;
- IRS mailed your notice of deficiency to the wrong address;
- You have already filed a timely petition with the Tax Court;
- The statute of limitations for collection ended before IRS filed the notice of lien.

Your appeal request must be in writing and contain the following:

- Your name, current address and SSN/EIN;
- Copy of this notice of lien, if available;
- The specific reason(s) why you think the IRS is in error;
- Proof that you paid the amount due (such as cancelled check);
- Proof that you filed a bankruptcy petition before this lien was filed.

Send your written request to the IRS, Attention: Technical Services Group Manager, in the office where this notice of lien was filed.

When This Lien Can Be Released

The IRS will issue a Certificate of Release of Federal Tax Lien within 30 days after:

- You pay the tax due, including penalties, interest, and any other additions under law, or IRS adjusts the amount due, or;
- The end of the time period during which we can collect the tax (usually 10 years).

Publication 1450, Request for Release of Federal Tax Lien, available at IRS offices, describes this process.

When a Lien against Property can be Removed

The IRS may remove the lien from a specific piece of property if any of the following conditions apply:

- You have other property subject to this lien that is worth at least two times the total of the tax you owe, including penalties and interest, plus the amount of any other debts you owe on the property (such as a mortgage);
- You give up ownership in the property and IRS receives the value of the government's interest in the property;
- IRS decides the government's interest in the property has no value when you give up ownership;
- The property in question is being sold; there is a dispute about who is entitled to the sale proceeds; and the proceeds are placed in escrow while the dispute is being resolved.

Publication 783, Instructions on How to Apply for a Certificate of Discharge of Property from a Federal Tax Lien, available at IRS offices, describes this process.

Gravamen

Este Aviso de Gravamen del Impuesto Federal da aviso público que el gobierno tiene un gravamen en todas sus propiedades (tal como su casa o carro), todos sus derechos a propiedad (tales como el dinero que le adeudan a usted) y la propiedad que adquiere después que se presentó este gravamen.

Sus Derechos de Apelación Administrativos

Si usted cree que el IRS presentó este Aviso de Gravamen del Impuesto Federal por error, usted puede apelar si cualquiera de las siguientes condiciones le aplican:

- Usted pagó todo el impuesto, multa, interés antes de que el gravamen fuera presentado;
- El IRS tasó el impuesto después de la fecha en que usted presentó una petición de quiebra;
- El IRS le envió por correo el aviso de deficiencia a una dirección incorrecta;
- Usted presentó a tiempo una petición ante la Corte de Impuesto;
- El IRS no presentó el aviso de gravamen dentro del término prescriptivo.

Su petición de apelación tiene que estar por escrito y debe incluir lo siguiente:

- Su nombre, dirección actual y SSN/EIN;
- Una copia de este aviso de gravamen, si está disponible;
- La razón (o razones) específica(s) por qué piensa que el IRS está erróneo;
- Prueba que pagó la cantidad adeudada (tal como un cheque cancelado);
- Prueba que presentó una petición de quiebra antes de que se presentara el gravamen.

Envíe su petición por escrito al IRS, Atención: "Technical Services Group Manager" (Grupo de Gerente-Servicios Técnicos) en la oficina donde este aviso de gravamen fue presentado.

Cuándo Este Gravamen Se Puede Cancelar

El IRS emitirá un Certificado de Cancelación de Gravamen del Impuesto Federal dentro de 30 días después que:

- Usted paga el impuesto adeudado, incluyendo multas, intereses, y otras sumas adicionales según la ley, o el IRS ajusta la cantidad adeudada, o;
- Aceptemos una fianza garantizando el pago de su deuda;
- La expiración del término en que podemos cobrar el impuesto (usualmente 10 años).

La Publicación 1450, en inglés, "Petición Para Cancelar el Gravamen del Impuesto Federal", describe este proceso y está disponible en las oficinas del IRS.

Cuándo un Gravamen en Contra de la Propiedad Puede Eliminarse

El IRS puede eliminar el gravamen de una propiedad específica si cualquiera de las siguientes condiciones aplica:

- Usted tiene otra propiedad sujeta a este gravamen cuyo valor es por lo menos dos veces el total del impuesto que usted adeuda, incluyendo intereses y multas, más la cantidad de cualquiera de las otras deudas que adeuda sobre la propiedad (tal como una hipoteca);
- Usted cede su interés en la propiedad y el IRS recibe el valor del interés del gobierno en la propiedad;
- El IRS decide que el interés del gobierno en la propiedad no tiene valor alguno cuando usted cedió su interés en la propiedad;
- La propiedad gravada será vendida; existe una controversia sobre quién tiene derecho al producto de la venta; y se depositan los fondos recibidos en la venta en una cuenta especial en lo que se resuelve la controversia.

La Publicación 783 en inglés, "Instrucciones de Cómo Solicitar un Certificado de Relevó de la Propiedad de un Gravamen del Impuesto Federal", describe este proceso y está disponible en las oficinas del IRS.



CCP-LU HOLLY NICHOLSON
153 SAWKILL ROAD
KINGSTON, NY 12401

CERTIFIED MAIL

9307110756602063078265

Letter Date: 12/08/2015

Taxpayer Identification Number:
XXX-XX-XXXXPerson to Contact:
HOLLY NICHOLSONContact Telephone Number:
(845) 340-2533Employee Identification Number:
1001023159

ROBERT L SCHULTZ
2458 RIDGE ROAD
QUEENSBURY, NY 12804-6943

001226

Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320

Dear ROBERT L SCHULTZ

We filed a Notice of Federal Tax Lien on 12/08/2015 .

| Type of Tax | Tax Period | Assessment Date | Amount on Lien |
|-------------|------------|-----------------|----------------|
| 6700 | 12/31/2003 | 03/09/2015 | 224000.00 |

NOTE: Please contact the person whose name and telephone number appears on this notice to obtain the current amount you owe. Additional interest and penalties may be increasing the amount on the lien shown above.

A lien attaches to all property you currently own and to all property you may acquire in the future. It also may damage your credit rating and hinder your ability to obtain additional credit.

You have the right to a hearing with us to appeal this collection action and to discuss your payment method options. To explain the different collection appeal procedures available to you, we have enclosed Publication 1660, Collection Appeal Rights.

You must request your hearing by 01/14/2016 . Please complete the enclosed Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, and mail it to:

Internal Revenue Service
153 SAWKILL ROAD
KINGSTON, NY 12401

We will issue a Form 668(Z), Certificate of Release of Notice of Federal Tax Lien, within 30 days:

- After you pay the full amount of your debt;
- We accept a bond guaranteeing payment of the amount owed; or
- A decision is made to adjust your account (i.e., during an Appeals hearing).

We have enclosed Publication 1450, Instructions on How to Request a Certificate of Release of Federal Tax Lien.

If you have any questions, please contact the person whose name and telephone number appear at the top of this letter.

Sincerely,



Director, Specialty Collections

Enclosures:

Publication 594, *The Collection Process*

Publication 1450

Publication 1660

Form 668 (Y) (C), *Notice of Federal Tax Lien*

Form 12153